

Clerk

United States Court of Appeals For the First Circuit

No. 06-1962
DC No. 04-cv-12401-RCL

DEREK JACKSON,
Petitioner, Appellant,

v.

UNITED STATES,
Respondent, Appellee.

ORDER OF COURT
Entered: October 18, 2006
Pursuant to 1st Cir. R. 27(d)

This court has docketed appellant's appeal from the denial of his motion to vacate sentence pursuant to 28 U.S.C. § 2255. On October 17, 2006, the district court granted appellant's request for a certificate of appealability with incorporated request to proceed on appeal in forma pauperis. Pursuant to Local Rule 22.1 "[i]f the district court grants a certificate of appealability, it must state which issue or issues satisfy the standard set forth in 28 U.S.C. §2253 (c)(2)."

We now transmit copies of appellant's request for a certificate of appealability and financial affidavit to the district court and request that it specify as to which issues the certificate was granted and as to whether the appellant is granted to proceed in forma pauperis on appeal. See Local Rule 22.1(b). Copies of the district court's ruling shall be forwarded to this court.

CERTIFIED COPY

HEREBY CERTIFY THIS DOCUMENT
IS A TRUE AND CORRECT COPY OF
THE ORIGINAL ON FILE IN MY OFFICE
AND IN MY LEGAL CUSTODY.

FIRST CIRCUIT COURT OF APPEALS
BOSTON, MA

[Signature] Date: *10/18/06*

By the Court:

Richard Cushing Donovan, Clerk

MARGARET CARTER

By: _____
Chief Deputy Clerk

[Certified copy to the Honorable Reginald C. Lindsay, Sarah
Thornton, Clerk, USDC and cc: Messrs. Jackson, Feeley,
Ms. Chaitowitz]

Case 1:04-cv-12401-RCL Document 19 Filed 07/14/2006 Page 1 of 5

UNITED STATES DISTRICT COURT FOR

MASSACHUSETTS

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DIRECK JACKSON (PETITIONER)

U.S. DISTRICT COURT
DISTRICT OF MASS.

v.

CASE. NO 06-1962

04-12401-RCL

UNITED STATES OF AMERICA

(RESPONDENT)

PETITIONER'S REQUEST FOR CERTIFICATE OF APPEALABILITY

NOW COMES petitioner respectfully requesting to be issued a Certificate Of appealability in order to seek redress from the District Court's judgement.

Jurisdiction of this instant request is invoked pursuant to Tittle 28 USC section 2253, as well as local rule 22.1(b). This request is also timely as it confirms to the time limit specified within the U.S. Court Of Appeals for the First Circuit order, dated 6-28-2006.

Petitioner seeks a certificate of appealability so as to present his valid constitutional claim to the U.S. Court Of Appeal For the First Circuit as he believes that he has meritorious issues which were wrongly decided by the district court. Petitioner further contends that he is more likely to prevail on appeal, thus a certificate of appealability should be issued in this instant

Case 1:04-cv-12401-RCL Document 19 Filed 07/14/2006 Page 2 of 5
case.

As petitioner's attorney Mr. Leo Sorokin admitted his inability to represent petitioner at the sentencing phase of petitioner's criminal proceeding, this constitute ineffectiveness on the part of petitioner's counsel, which prejudiced petitioner, and has resulted in a Strickland violation. see Strickland v. Washington 466, US 668.

Consequently, Petitioner prays that this court grant his request and issue him a certificate of appealability.

Respectfully submitted,

Detecta Jackson
24039-038

Dated 7-¹⁰3-2006

PROOF OF SERVICE

I certify that on 7-¹⁰3-2006 (date) I mailed a copy of this brief and all attachments via first class mail to the following parties at the addresses listed below:

Michael J. Sullivan, USA
1 CourtHouse Way, John Joseph Moakley
CourtHouse, Boston 02210

PROOF OF SERVICE FOR INSTITUTIONALIZED OR INCARCERATED LITIGANTS

In addition to the above proof of service all litigants who are currently institutionalized or incarcerated should include the following statement on all documents to be filed with this Court:

I certify that this document was given to prison officials on 7-3-006 (date) for forwarding to the Court of Appeals. I certify under penalty of perjury that the foregoing is true and correct. 28 U.S.C. §1746.


Signature

Dated: 7-¹⁰3-2006

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DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS**In The United States District Court For The**MassachusettsDereck Jackson**Petition/Plaintiff**Case Number: 06-1962United States**Respondent(s)/Defendant(s)**

I, Dereck Jackson, am the petitioner/plaintiff in the above entitled case. In support of my motion to proceed without being required to prepay fees or costs or give security therefore, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefore, that I believe I am entitled to redress.

I declare that the responses which I have made below are true.

1. If you are presently employed, state the amount of your salary wage per month, and give the name and address of your last employer. YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.

(per-month)
\$35.00 to \$40.00

F.C.I. Schukill P.O. Box 759. Minersville,
Pa 17954-0759

2. If you are NOT PRESENTLY EMPLOYED, state the date of last employment and amount of the salary per month which you received AND how long the employment lasted. YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED. IF YOU HAVE NEVER BEEN EMPLOYED, SAY SO.

\$35.00 to \$40.00

3. Have you ever received, within the past twelve months, any money from any of the following sources?

a. Business, profession, or form of self-employment?	YES__	NO <u>x</u>
b. Rent payments, interest, or dividends?	YES__	NO <u>x</u>
c. Pensions, annuities, or life insurance payments?	YES__	NO <u>x</u>
d. Gifts or inheritances?	YES__	NO <u>x</u>
e. Any form of public assistance?	YES__	NO <u>x</u>
f. Any other sources?	YES__	NO <u>x</u>

If the answer to any of the questions in part three is yes, describe each source of money and state the amount received from each during the past months.

N/A

4. Do you own any cash or do you have money in a checking or savings account?

YES _____ NO X (Including any funds in prison accounts)

If the answer is yes, state the total value owned.

N/A

5. Do you own any real estate, stock, bonds, notes, automobiles, or other valuable property (including ordinary household furnishings and clothing)?

YES _____ NO X

If the answer is yes, describe the property and state its approximate value.

N/A

6. List the person(s) who are dependent upon you for support, state your relationship to those person(s), and indicate how much you contribute toward their support at the present time.

2 Childern (Boys) My sons. \$10.00 each son.

7. If you live in a rented apartment or other rented building, state how much you pay each month for rent. Do not include rent contributed by other people.

N/A

8. State any special financial circumstances which the court should consider in this application. I am presently incarserated, and I am unable to any court fees.

I understand that a false statement or answer to any questions in this declaration will subject me to the penalties for perjury.

I declare under penalty of perjury that the forgoing is true and correct.

Signed this 10th day of July, 2006.

Delrick Jackson
(Signature)

**Affidavit to Accompany
Motion for Leave to Appeal in Forma Pauperis**

District Court No. 04-CV-12401-RCL
Appeal No. 06-1962

v.

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DISTRICT COURT
DISTRICT OF MASS

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: Detrick Jackson

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 8-3-2006

My issues on appeal are:

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>40.00</u>	\$ <u>N/A</u>	\$ <u>40.00</u>	\$ <u>N/A</u>
Self-employment	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): <u>N/A</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Total Monthly income:	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
<u>B.O.P</u>	<u>759 P.O. Box 759</u>	<u>10-2005</u>	<u>\$ 40.00</u>
	<u>Minersville, PA</u>		
	<u>17954-0759</u>		

3. List your spouses's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

4. How much cash do you and your spouse have? \$ N/A \$40.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
<u>N/A</u>	<u>N/A</u>	\$ <u>40.00</u>	\$ <u>N/A</u>
		\$ _____	\$ _____
		\$ _____	\$ _____

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	(Value)	Other real estate	(Value)	Motor Vehicle #1	(Value)
<u>N/A</u>		<u>N/A</u>		Make & year: _____	
				Model: <u>N/A</u>	
				Registration#: _____	
Motor Vehicle #2	(Value)	Other assets	(Value)	Other assets	(Value)
Make & year: _____		<u>N/A</u>		<u>N/A</u>	
Model: <u>N/A</u>					
Registration#: _____					

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
<u>DERECK JACKSON</u>	<u>son</u>	<u>14</u>
<u>DARRELL JACKSON</u>	<u>son</u>	<u>7</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>N/A</u>	\$ <u>N/A</u>
Are any real estate taxes included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$ <u>1.⁰⁰ / 2.⁰⁰</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>N/A</u>	\$ <u>N/A</u>
Food	\$ <u>20.⁰⁰</u>	\$ <u>N/A</u>
Clothing	\$ <u>N/A</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>5.⁰⁰</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>N/A</u>	\$ <u>N/A</u>
Transportation (not including motor vehicle payments)	\$ <u>N/A</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>N/A</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in Mortgage payments)	\$ <u>N/A</u>	\$ <u>N/A</u>
Homeowner's or renter's	\$ <u>N/A</u>	\$ <u>N/A</u>
Life	\$ <u>N/A</u>	\$ <u>N/A</u>
Health	\$ <u>1.⁰⁰ / 2.⁰⁰</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>N/A</u>	\$ <u>N/A</u>
Other: <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in Mortgage payments)(specify): _____	\$ <u>N/A</u>	\$ <u>N/A</u>
Installment payments	\$ <u>N/A</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>N/A</u>	\$ <u>N/A</u>
Credit card (name): <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Department store (name): <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Other: <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>

Alimony, maintenance, and support paid to others	\$ <u>N/A</u>	\$ <u>N/A</u>
Regular expenses for operations of business, profession, or farm (attach detailed statement)	\$ <u>N/A</u>	\$ <u>N/A</u>
Other (specify): <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>N/A</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? \$ N/A

If yes, state the attorney's name, address, and telephone number:

N/A

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \$ N/A

If yes, state the person's name, address, and telephone number:

N/A

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

I work here at F.C.I. Schuylkill as a Hospital order and I'm only allowed to work 2 hours and 45 second each day. And I only receive (.17¢) per hour with extra pay (only) if I pick up blood spill. For it to come to about \$ 40.00 a month.

13. State the address of your legal residence.

DERECK JACKSON. F.C.I. Schuylkill
P.O. Box 759, Minersville, PA, 17954-0759

Your daytime phone number: () N/A

Your age: 34 Your years of schooling: 12th



Dereck Jackson
#24039-038
F.C.I. Schuylkill
P.O. Box 759
Minersville, PA 17954-0759

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2006 SEP 14 P:
U.S. DISTRICT COURT
DISTRICT OF MASS.

Case #04-CR-12401-RCL

United States District Court
Office of The Clerk
United States CourtHouse
1 CourtHouse Way, suite 2300
Boston, Mass. 02210

Re: Status on Request For C.O.A./
Copy of docket entry on case #
04-CR-12401-RCL.

To whom it may concern I am requesting for a copy
of the docket entry on the above case # as mention.

I have also filed a request in your court on 7-24-2006 and
8-23-2006, which was directed to me by the U.S. Court of
Appeal For The First Circuit that I request for a certificate
of appealability to your court. I have yet to hear from your
court on my request that I made on 7-24-2006 and 8-23-2006.
I am again making a request for (1) the Certification of
Appealability, (2) for a copy of the docket entry on case #
04-CR-12401-RCL.

Thank you,

Mr. Detech Jackson

C.C.

9-11-2006